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INTERNATIONAL PRELIMINARY EXAMINATION REPORT (PCT Article 36 and Rule 70)



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| Applicant's or agent's file reference F 7643 (V) | FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416) | |
| International application No. PCT/EP03/02625 | International filing date (day/month/year) 10.03.2003 | Priority date (day/month/year) 09.04.2002 |
| International Patent Classification (IPC) or both national classification and IPC A23D9/00 | | |
| Applicant UNILEVER N.V. et al | | |

- This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
- This REPORT consists of a total of 4 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheets.

- This report contains indications relating to the following items:
 - I ☒ Basis of the opinion
 - II ☐ Priority
 - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV ☐ Lack of unity of invention
 - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI ☐ Certain documents cited
 - VII ☐ Certain defects in the international application
 - VIII ☐ Certain observations on the international application

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| Date of submission of the demand 23.10.2003 | Date of completion of this report 28.11.2003 |
| Name and mailing address of the International preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016 | Authorized Officer Rooney, K Telephone No. +31 70 340-3931  |

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/EP03/02625

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-14 as originally filed

Claims, Numbers

1-11 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/EP03/02625

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

1. Statement

| | | |
|-------------------------------|-------------|------|
| Novelty (N) | Yes: Claims | 1-11 |
| | No: Claims | |
| Inventive step (IS) | Yes: Claims | 1-11 |
| | No: Claims | |
| Industrial applicability (IA) | Yes: Claims | 1-11 |
| | No: Claims | |

2. Citations and explanations

see separate sheet

Re Item V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. The following documents (D) are referred to in this communication;

D1: US-B-6 238 9261 (LIU LINSEN ET AL) 29 May 2001 (2001-05-29)
D2: CHU, B.S., GHAZALI, H.M., LAI, O.M., CHE MAN, Y.B. AND YUSOF, S.:
'Physical and chemical properties of a lipase-transesterified palm stearin/palm kernel olein blend and its isopropanol-solid and high melting triacylglycerol fractions' FOOD CHEMISTRY, vol. 76, no. 2, February 2002 (2002-02), pages 155-164, XP002213304 XX, XX

2. The present application meets the requirements of Article 33 (2) PCT, because the subject-matter of claims 1-11 is new.

3. The closest prior art document D1 discloses compositions consisting of oil mixtures resulting from interesterification (see D1; table 5). The subject-matter of claim 1 differs from this document in the composition of this blend. Table 5 describes the following blend (claim 1 in parentheses) having 3.84% HHH (2.5-5.5%), 51% of these HAH are monoacid (25-65%), and the remaining are mixed acid. However, the blend does not contain mixed triglycerides including greater than 85% palmitic acid and additionally C12 or C14 saturates. The effect of this technical feature is the provision heat stability and good mouth feel to products to which it is added (see comparative tests). Similar fats are produced by the process described in the document D2 although the composition of these fats is not described (see D2; whole document). Therefore, there is no teaching in the prior art towards the blend of claim 1 and the subject-matter of claim 1 satisfies the requirements of Article 33 (3) PCT. The process for making this blend, using this blend in the preparation of a water in oil emulsion and its use in a spread also satisfy the requirements of the PCT with regard to inventivity.